

1 David Edward Martin, In Pro Se
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3 3108 Aloha Lane
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6 Chico, California, 95973
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11 UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF CALIFORNIA SAN
12 FRANCISCO DIVISION
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15 Case No. 19 -30088 (DM) Chapter 11 (Lead Case) (Jointly Administered)
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18 In re: PG&E CORPORATION,
19 - and -
20 PACIFIC GAS AND ELECTRIC
21 COMPANY, Bankruptcy
22 Debtors.
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24 Case No.: 19 -30088 (DM) Chapter 11
25 (Lead Case) (Jointly Administered) .
26 [Assigned to: Judge Dennis Montali]
27 Judicial Notice
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29 To the clerk of the Court: File on
30 Demand'
31 APPEARANCE BY AFFIDAVIT
32 Date: 3 November, 2023
33

34 Affects PG&E Corporation Affects Pacific
35 Gas and Electric Company Affects both Debtors
36

37 * All papers shall be filed in the Lead Case, No.
38 19-30088 (DM)
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2 COMES NOW David Edward Martin to demand that the clerk perform only a
3 ministerial function, that the clerk not perform any tribunal
4 functions, and that the clerk refer the Judicial Notice
5 to the court for tribunal determination regarding the filing of
6 Said Judicial Notice.

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8 I am a party in this action. I declare under penalty of perjury under
9 the laws of the State of California and Federal Government that the foregoing
10 allegations and statements are true and correct, except as to matters that are
11 stated on my information and belief, and as to those matters, I believe them
12 To be true.

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14 This demand is made on the following authority of law:

15 The rules are clear that the clerk "must not refuse to file a paper solely because it is
16 not in the form prescribed by these rules or by a local rule or practice." Fed. R. Civ. P. 5
17 (d)(4). The Fifth Circuit has held that "the clerk does not possess the power to reject a
18 pleading for lack of conformity with form requirements, and a pleading is considered
19 filed when placed in the possession of the clerk of the court." McClellon v. Lone Star
20 Gas Co., 66 F.3d 98, 101 (5th Cir. 1995). The Court has discretion, in the interest of
21 justice Fed. R. Bankr. P. 5005(c).

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23 In re the Heritage Organization (Bankr. N.D. Tex., 2011)

24 "The actions of the court clerk's office are quite troubling. 'It is difficult enough to
25 practice law without having the clerk's office as an adversary.' (*Rojas v. Cutsforth*
26 (1998) 67 Cal.App.4th 774, 777 (*Rojas*).) Whether Voit's motion has legal merit is a
27 determination to be made by a judge, not the clerk's office. No statute, rule of court,
or case law gives the court clerk's office the authority to demand that a petitioner cite
or quote precedent before his motion will be filed.

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2 "If a document is presented to the clerk's office for filing in a form that complies with
3 the rules of court, the clerk's office has a ministerial duty to file it. (See *Carlson v.*
4 *Department of Fish & Game* (1998) 68 Cal.App.4th 1268, 1276.) Even if the document
5 {Slip Opn. Page 3} contains defects, the clerk's office should file it and notify the party
6 that the defect should be corrected. (See *Rojas, supra*, 67 Cal.App.4th at p. 777.) ...
7 By unilaterally refusing to file Voit's motion, the clerk's office prevented the court from
8 applying this precedent, or any other relevant law, to Voit's particular circumstances.
9 The clerk's office's actions violated Voit's rights under both the federal and state
10 Constitutions to access the courts. (U.S. Const., 1st Amend.; Cal. Const., art. I, § 3.)"
11 Voit v. Superior Court of Santa Clara Cnty. (Cal. App., 2011)

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13 November 3, 2023

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